APPENDIX "A".

Memorandum Opinion and Judgment.

Appellate Department of the Superior Court of the State of California, for the County of Los Angeles.

People of the State of California, Plaintiff and Respondent, vs. Francisco Perez, Joan Fae Schiffiler, Joan Fae Schiffiler, Joan Fae Schiffiler, etc., Joan Fae Schiffiler, Frenchy Mary Deschesnes, Defendants and Appellants. Superior Court Nos. CR A 7709, CR A 7710, CR A 7711, CR A 7712, CR A 7713, CR A 7714. Trial Court Nos. M 26350, M 26651, M 26747, M 26782, M 26786, M 26787.

Appeal by each defendant from judgment (order granting probation in case number CR A 7713) of the Municipal Court of the Los Cerritos Judicial District, Roberta Butzbach, Judge. Affirmed.

For Appellants—Berrien E. Moore.

For Respondent—Evelle J. Younger, District Attorney, Harry Wood, Chief, Appellate Division, Robert Lederman, Deputy District Attorney.

Each of these cases involves an appeal by the defendant from a judgment (Case number CR A 7713 is treated as an appeal from order granting probation), after a finding of guilty of a violation of subd. (w) of § 30005 of the Municipal Code of the City of Hawaiian Gardens. This section requires a *permit* for various types of activities, in the case of subd. (w) being the conducting of "topless entertainment". Section 30003 designates a charge of $15 for filing an application for a permit. It also requires that the *license fee* prescribed in Chapter 5 "shall accompany the application". The copy of the ordinance furnished us by the

City Clerk contains no Chapter 5. However, it does contain a Chapter 6 which does prescribe a *license fee* of $1,000 per year for "topless entertainment".

The complaint in each of the four cases involving the defendant Schiffiler originally charged the lack of a license or permit. In each of these cases the reference to a license was amended out charging only the lack of a permit. In the case involving the defendant Perez and that involving the defendant Deschesnes, the charge is as in the original complaint against the defendant Schiffiler, "without a license or permit". In each case the complaint refers to subd. (w) of § 30005 which does not purport to require a license but does require a permit. We treat the complaint, therefore, as involving only a permit. This reduces our inquiry to the limited issue of whether the requirement of subd. (w) of § 30005 is void and eliminates all questions as to subd. V of § 60002 as the defendants are not charged with violating that section.

We find no claim by any of the appellants that the permit fee as such is void. We agree that such claim could not be successfully made. (*People v. Kukkanen* (1967) 248 A.C.A. 450; *Robins v. County of Los Angeles* (1967) 248 A.C.A. 611.)

The judgment in each of the cases numbered CR A 7709, CR A 7710, CR A 7711, CR A 7712 and CR A 7714 is affirmed. The order granting probation in case numbered CR A 7713 is affirmed.

Dated 12/27/67

Vasey
Judge

We concur: Whyte, Presiding Judge, Meyer, Judge.

APPENDIX "B".

CLERK'S OFFICE, SUPREME COURT
4250 State Building
San Francisco, California 94102

Feb. 8, 1968

Dear Sir: I have this day filed Order PETITION FOR WRIT OF HABEAS CORPUS DENIED.

In re: Crim. No. 11890, Perez, et al. on

Respectfully,

William I. Sullivan
Clerk